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In re Application of	:	
CHIBA, et al.	:	
U.S. Application No.: 10/049,887	:	DECISION ON PETITIONS
PCT No.: PCT/JP00/05474	:	
Int. Filing Date: 16 August 2000	:	UNDER 37 CFR 1.182 AND
Priority Date: 19 August 1999	:	
Attorney's Docket No.: 081356-0168	:	37 CFR 1.42
For: NOVEL YEAST VARIANTS AND PROCESS	:	
FOR PRODUCING GLYCOPROTEIN	:	
CONTAINING MAMMALIAN TYPE SUGAR	:	
CHAIN	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.182 And Fee" filed 10 January 2003 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 18 December 2002, applicant was mailed a communication informing applicant that the combined declaration and power of attorney filed 20 September 2002 did not comply with 37 CFR 1.497 (a)-(b) as the fourth listed inventor was listed and executed as "Nagako KAWASHIMA" on the declaration whereas the International Application lists the fourth inventor as "Eiko KAWASHIMA." Applicant was afforded one month to file a proper response.

On 10 January 2003, applicant filed the present petition under 37 CFR 1.182 accompanied by an affidavit executed by Nagako KAWASHIMA.

### **DISCUSSION**

#### **I. Petition Under 37 CFR 1.182**

The present response includes explanations from counsel and the inventor in question that the name of inventor, Nagako KAWASHIMA, is spelled incorrectly on the international application, but is listed and executed correctly on the combined declaration and power of attorney. With the present response and explanations, applicant has provided a sufficient explanation regarding the transliteration error in inventor KAWASHIMA's name to accept the combined declaration and power of attorney filed 20 September 2002. Section 201.03 of the

MPEP provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required. As such, the \$130.00 petition fee provided by applicant will be refunded to Deposit Account No.: 19-0741.

## II. Request For Status Under 37 CFR 1.42

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 20 September 2002 is executed by Yoriko TAKEUCHI as legal representative of the estate of the third listed inventor, Makoto TAKEUCHI, and provides the legal representative's residence, post office address and country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 20 September 2002.


### CONCLUSION

Applicant's petition under 37 CFR 1.182 is **DISMISSED as moot**.

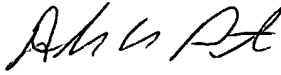
Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 16 August 2001 and a date of **20 September 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).



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